

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

LYNNE M. NILL, et ux.,	:	Case No. C-1-01-755
	:	
Plaintiffs,	:	Judge S. Beckwith, J. Hogan, M.J.
	:	
v.	:	
	:	
PERRIGO SALES CORPORATION, et	:	
al.,	:	
	:	
Defendants.	:	

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**RULE 26(f) REPORT OF THE PARTIES**

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1. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on June 8, 2004, and was attended by:

Calvin S. Tregre, Jr.	Counsel for Plaintiffs
G. Todd Hoffpauir	Counsel for Defendant Perrigo Sales Corporation
Denise M. Smith	Counsel for Defendant Bristol-Myers Squibb Company

2. The parties:  
\_\_\_ have exchanged the discovery disclosures required by Rule 26(a)(1);  
\_\_\_ will exchange such disclosures by \_\_\_\_\_;  
\_\_\_ are exempt from disclosure under Rule 26(a)(1)(E); and/or  
 x  have agreed not to make initial disclosures.
3. The parties:  
\_\_\_ unanimously consent to the jurisdiction of, and entry of judgment by, the United States Magistrate Judge pursuant to 28 USC 636(c); and/or  
 x  do not unanimously consent to the jurisdiction of an entry of judgment by the United States Magistrate Judge pursuant to 28 USC 636(c).
4. Recommended cut-off date for filing any motion to amend the pleadings and/or to add additional parties: Time already expired

5. Is the case appropriate for mediation after a limited discovery period? No  
(Mediation was held on April 30, 2004, and was unsuccessful.)  
Will the parties request the services of a court mediator? No  
Has a settlement demand been made? Yes  
Date by which a settlement demand can be made? N/A  
Date by which a response can be made to settlement demand? N/A
6. Recommended Discovery Plan:

- a. Describe the subjects on which discovery is to be sought and the nature and extent of discovery that each party needs to: (1) make a settlement evaluation; (2) prepare for case dispositive motions, and (3) prepare for trial:

Case-specific expert discovery remains to be completed. In addition, limited case-specific fact discovery may be completed consistent with the MDL Court's final pretrial order. Generic expert discovery was conducted in the MDL. However, the parties may designate experts and/or expert testimony different from or in addition to the generic expert discovery in the MDL consistent with the MDL Court's Final Pretrial Order and the MDL Court's Stipulation and Order Regarding Expert Disclosures dated September 9, 2002.

- b. What changes should be made, if any, in the limitations on discovery imposed under the Fed. R. Civ. P. or the S.D. Ohio Civ. Rules, including the limitations to twenty-five (25) interrogatories, forty (40) requests for admissions, and the limitation of ten (10) depositions, each lasting no more than one seven-hour day?

The parties agree that depositions of expert witnesses may exceed the seven-hour limitation imposed by the Federal Rules of Civil Procedure, if necessary.

- c. Additional recommended limitations on expansions of discovery:

Not applicable.

- d. Describe the areas for which expert testimony is expected and indicate whether each expert will be specifically retained within the meaning of Fed. R. Civ. P. 26(a)(f):

Case-specific expert discovery relative to many areas, including but not limited to causation, damages, labeling, or regulatory issues, as well as testimony from economist on case-specific issues. The parties cannot state at this time whether each expert will be "specifically retained."

The parties were unable to reach an agreement regarding disclosure of expert witnesses and agreed to submit two proposals to the Court for discussion at the preliminary pretrial conference.

**Plaintiffs' Proposal:**

- e. Recommended date for identifying primary experts: 9/15/04
- f. Recommended date for producing primary expert reports: 9/15/04
- g. Recommended date for identifying rebuttal experts: 11/1/04
- h. Recommended date for producing rebuttal expert reports: 11/1/04
- i. Recommended discovery cut-off date: 12/5/04

**Defendants' Proposal:**

- e. Recommended date for identifying Plaintiffs' primary experts, preliminary witness list, and preliminary exhibit list for trial: 9/15/04  
Recommended date for identifying Defendants' primary experts, preliminary witness list, and preliminary exhibit list for trial: 11/1/04
- f. Recommended date for producing Plaintiffs' primary expert reports: 9/15/04  
Recommended date for producing Defendants' primary expert reports: 11/1/04
- g. Recommended date for identifying Plaintiffs' rebuttal experts: 11/15/04  
Recommended date for identifying Defendants' rebuttal experts: 11/30/04
- h. Recommended date for producing Plaintiffs' rebuttal expert reports: 11/1/04  
Recommended date for producing Defendants' rebuttal expert reports: 11/30/04
- i. Recommended discovery cut-off date: 12/30/04

The parties submit the following without dispute:

- 7. Recommended dispositive motion deadline: 1/31/05
- 8. Recommended date for final pretrial conference: 5/31/05  
(at least four (4) months after dispositive motion deadline)

9. Recommended date for trial: 7/18/05  
(at least one (1) month after final pretrial conference)
10. Other matters for the attention of the Court:  
Daubert motions and hearing; other pretrial motions (e.g., motions in limine)

**SIGNATURES:**

/s/ Calvin S. Tregre, Jr./Denise M. Smith

(per authority)

Beverly H. Pace (#037534)  
Calvin S. Tregre, Jr. (#073454)  
LOPEZ HODES RESTAINO MILMAN  
SKIKOS & POLOS  
312 Walnut Street, Suite 2090  
Cincinnati, Ohio 45202  
Tel: (513) 852-5600  
Fax: (513) 852-381-5823  
E-Mail: [ctregre@lopez-hodes.com](mailto:ctregre@lopez-hodes.com)  
ATTORNEYS FOR PLAINTIFFS

/s/ G. Todd Hoffpauir/Denise M. Smith

(per authority)

James J. Montgomery (#018656)  
G. Todd Hoffpauir, (#064449)  
MONTGOMERY RENNIE & JONSON  
36 East Seventh Street, Suite 2100  
Cincinnati, Ohio 45202  
Tel: (513) 241-4722  
Fax: (513) 241-8775  
E-Mail: [ghoffpauir@mrj.cc](mailto:ghoffpauir@mrj.cc)  
ATTORNEYS FOR DEFENDANT  
PERRIGO SALES CORPORATION

/s/ Denise M. Smith

Denise M. Smith (#067604)  
ULMER & BERNE LLP  
600 Vine Street, Suite 2800  
Cincinnati, Ohio 45202  
Tel: (513) 698-5000  
Fax: (513) 698-5968  
E-Mail: [dsmith@ulmer.com](mailto:dsmith@ulmer.com)

Craig A. Marvinney (#0004951)  
ULMER & BERNE LLP  
Penton Media Building, Suite 900  
1300 East Ninth Street  
Cleveland, Ohio 44114  
Tel: (216) 931-6000  
Fax: (216) 931-6001  
E-Mail: [cmarvinney@ulmer.com](mailto:cmarvinney@ulmer.com)  
ATTORNEYS FOR DEFENDANT  
BRISTOL-MYERS SQUIBB COMPANY